



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/644,411	08/23/2000	Gerald H. Ablan	4A02.1-010	1730

35725 7590 05/05/2004

MEHRMAN LAW OFFICE, P.C.  
ONE PREMIER PLAZA  
5605 GLENRIDGE DRIVE, STE. 795  
ATLANTA, GA 30342

EXAMINER
----------

HEWITT II, CALVIN L

ART UNIT	PAPER NUMBER
----------	--------------

3621

DATE MAILED: 05/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/644,411

Applicant(s)

ABLAN, GERALD H.

Examiner

Calvin L Hewitt II

Art Unit

3621

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 27-52 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 27-52 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**Status of Claims**

1. Claims 27-52 have been examined.

**Claim Rejections - 35 USC § 101**

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

the claimed invention is directed to non-statutory subject matter.

3. Claims 51 and 52 are rejected under 35 U.S.C. 101 because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under 35 U.S.C. 101. See for example *Ex parte Dunki*, 153 USPQ 678 (Bd.App. 1967) and *Clinical Products, Ltd. v. Brenner*, 255 F. Supp. 131, 149 USPQ 475 (D.D.C. 1966).

**Claim Rejections - 35 USC § 112**

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 27-52 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 27 recites the limitation "the selected suction submission template" in line 16. There is insufficient antecedent basis for this limitation in the claim.

Claims 28-52 are also rejected as they depend from claim 27.

Claim 36 recites the limitation "the step of extracting the updated information" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 37 is also rejected as it depends from claim 36.

### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 27-31, 34-37, and 47-52 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Rackson et al., U.S. Patent No. 6,415,270.

As per claims 27-31, 34-37, and 47-52, Rackson et al. teach an auction system comprising:

- creating an auction consolidation account (figure 4)
- receiving (via user input) and storing in a library inventory records, image records, and advertisement templates (figure 4; column 9, lines 5-50)
- creating an auction submission combining an inventory record, image record and advertisement template (figures 3, 4 and 10; column 9, lines 5-50)
- storing the submission in a library in association with an account (figures 3, 4 and 10)
- transmitting the submission for auction to one or more sites in accordance with the auction parameters (figures 3, 4, and 10; column 8, lines 5-17)
- compiling a consolidated auction monitoring report pertaining to said request and in association with said account, said report containing information pertaining to each request (figure 14; column/line 24/5-25/35; column 26, lines 21-28)
- revisiting each auction site to extract update information, updating the report and displaying the report to a user (figure 14; column 23, lines 30-55; column/line 25/35-26/29)

- repeatedly constructing, transmitting and posting auction submissions, and monitoring auction reports (figures 3, 4, 10 and 14; column 8, lines 1-2)
- auction parameters from the group of posting date or time, auction end date or time, payment type, shipping method, minimum bid, reserve price and private auction indicator (column 9, lines 25-35)
- rendering the auction submission as an HTML page (column 8, lines 18-48)
- identifying a page, and downloading and parsing the page to extract updated auction information (figures 1-3, 10 and 14; column 8, lines 18-63)
- posting auction requests on different sites (figure 4)

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 31-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rackson et al., U.S. Patent No. 6,415,270 in view of Robinson et al. 5,915,022.

As per claims 31-33, Rackson et al. teach a system for conducting electronic transactions (figures 3, 4, 10 and 14). However, Rackson et al. do not specifically recite maintaining billing and sales records. Robinson et al. teach a method and system for conducting secure transactions comprising obtaining, creating and storing sales and billing records (abstract; figures 1-1-6C). Robinson et al. also teach transmitting a billing record to a purchaser (figure 1-2 and 5). Therefore, it would have been obvious to one of ordinary skill to combine the teachings of Rackson et al. and Robinson et al. in order to authenticate an electronic transaction by providing both parties with an accurate and secure record of the transaction ('022, column 2, lines 35-43).

10. Claims 38-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rackson et al., U.S. Patent No. 6,415,270.

As per claim 38, Rackson et al. teach providing a user with an internet interface for accessing update information (figure 14; column/line 25/55-26/29). However, Rackson et al. does not specifically recite when the extraction occurs. However, the "pushing" and "pulling" of data are old and well known and it would

have been obvious to one of ordinary skill to use whatever method (i.e. "push" or "pull") to obtain the data.

As per claims 39-43, Rackson et al. teach an auction system utilizing computer instructions and automation tools comprising: creating a user account, presenting the user items to be auctioned, presenting using an intelligent system to retrieve items that match a user's criteria- automatic feedback, a user bidding on an item, a consolidation bidding report that reflects that user bidding activity across multiple stations, monitoring bids, closing an auction, post sale and payment operations (abstract; figures 12-14; column 1, lines 37-45; column 3, lines 40-58; column/line 3/57-5/7; column/line 16/40-17/58; column 18, lines 11-17; column 19, lines 49-58). Regarding the extraction of closing data, it would have been obvious for a user to obtain this data automatically or by periodically visiting the site (e.g. E-Bay, Sotheby's) (abstract; figures 1-3, 10 and 11) and storing the data in the auction monitoring report (figure 14). Rackson et al. specifically teach providing, through a user with an internet-based interface, comprehensive and reporting and auction status for monitoring bidding activity (column 23, lines 5-18; column/line 25/55-26/36).

11. Claims 44-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rackson et al., U.S. Patent No. 6,415,270.in view of Strickland et al. U.S. Patent No. 5,956,024.



As per claims 44-46, Rackson et al. teach a method and system for conducting auctions that provides both buyers and sellers with an internet-based interface comprehensive reporting and auction status functionality for buyer and seller (column 23, lines 5-18; column/line 25/55-26/35). However, Rackson et al. do not specifically recite buyer notification, payment received and item shipping status. Strickland et al. teach a customer management interface for tracking, by a seller, customer account data such as payment status, buyer notification and delivery of services status (figure 1). Therefore, it would have been obvious to one of ordinary to provide the seller with an analogous "auction monitoring report" interface ('270 figure 14) for tracking seller related items such as sale completion ('270, column 8, lines 18-48; column 23, lines 5-18; '024, figure 1).

### ***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- Hess et al. teach information presentation in an online trading environment

13. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Calvin Loyd Hewitt II whose telephone

number is (703) 308-8057. The Examiner can normally be reached on Monday-Friday from 8:30 AM-5:00 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, James P. Trammell, can be reached at (703) 305-9768.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks  
c/o Technology Center 2100  
Washington, D.C. 20231

or faxed to:

(703) 305-7687 (for formal communications intended for entry and after-final communications),

or:

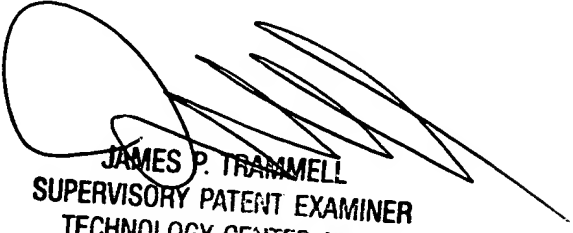
(703) 746-5532 (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park 5,  
2451 Crystal Drive, 7th Floor Receptionist.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-1113.

Calvin Loyd Hewitt II

April 22, 2004

  
JAMES P. TRAMMELL  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600